

Before the
Administrative Hearing Commission
State of Missouri

BACKYARD STORAGE)	
SOLUTIONS, LLC,)	
)	
Petitioner,)	
)	
vs.)	No. 13-1239 RS
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We dismiss the appeal filed by Backyard Storage Solutions, LLC (“Backyard Storage”) because we lack jurisdiction to hear it.

Procedure

On July 8, 2013, Backyard Storage filed a complaint requesting that this Commission review a matter involving tax liens filed with the Jackson County Recorder of Deeds and subsequently discharged by the Director of Revenue (“the Director”). Backyard Storage seeks an expungement of the liens from the records of itself and its officers. On August 8, 2013, the Director moved to dismiss Backyard Storage’s complaint for lack of jurisdiction. We notified Backyard Storage that it could respond to the Director’s motion by August 26, 2013, but it did not file a response.

Analysis

Our rule 1 CSR 15-3.436(1)(A) permits us to dismiss a complaint for lack of jurisdiction on the motion of a party or on our own motion. We are ruling on the Director’s motion based

upon the pleadings of the parties, which establish that Backyard Storage is appealing the Director's lien rather than a notice of deficiency.

Section 621.050¹ provides that we have jurisdiction to hear a petition from the Director's final decisions:

1. Except as otherwise provided by law, any person or entity shall have the right to appeal to the administrative hearing commission from any finding, order, decision, assessment or additional assessment made by the director of revenue.

The statute authorizing the Director to file a lien and certificate of record requires that the decision on the amount of tax owed "has become final[.]" Section 144.380.1. A tax lien is not a decision, but a method of collecting an unpaid tax. Section 144.380.1(4), which sets forth the mechanism to challenge a certificate of lien if it has been "erroneously or improvidently filed," requires the taxpayer to first make arguments and provide necessary information to the Director rather than to this Commission.

Because the Director's actions in filing and discharging liens are not a "finding, order, decision, assessment or additional assessment," we do not have jurisdiction over this matter. If we have no jurisdiction, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000).

We grant the Director's motion and dismiss the complaint for lack of jurisdiction.

SO ORDERED on August 30, 2013.

/s/ Karen A. Winn
KAREN A. WINN
Commissioner

¹ Statutory references, unless otherwise noted, are to RSMo 2000.